

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA

Plaintiff,

Vs.

ROBERTO FERRARIO-POZZI [6]

Defendant[s]

CASE #: 98-CR-189 (HL)

**VERIFIED NOTICE OF CLAIM AND MOTION FOR TO SET
ASIDE PRELIMINARY ORDER FORFEITURE**

TO THE HONORABLE COURT:

COMES NOW claimant Nelly Esperanza Bejerano, by and through the undersigned counsel, and pursuant to Fed.R.Crm.P. 32.2 and 18 U.S.C. § 982 and 983 moves this court to set aside the criminal forfeiture of defendant Roberto Ferrario Pozzi. In support the claimant states and prays as follows:

1. The claimant –Nelly Esperanza Bejerano- is the lawful wife of Roberto Ferrajo Pozzi.

2. The claimant is a resident of the Country of Colombia and is a Colombian citizen. She was not indicted nor charged with any crime in the instant case. She has remained in the country of Colombia during the time of the crime charged.
3. Pursuant to the laws of the Commonwealth of Puerto Rico as lawful wife. The claimant is entitled to $\frac{1}{2}$ of all of the forfeiture property within the commonwealth of Puerto Rico innocent owner and as owner on the $\frac{1}{2}$ of the community property of Roberto Ferrario-Pozzi. As a tenant by the entireties, the claimant is entitled to all of the property forfeited by the defendant Roberto Ferrario Pozzi as is located in a common law jurisdiction.

4. The claimant makes specific claims for the following properties:

The claimant makes a claim and moves to set aside the preliminary order of forfeiture with respect to the following items:

A: The claimant makes a claim for item:

2.C. \$673,255 sent to credit Suisse P.B. account #172477745-42 in the name of Brianzanet. The claim for the instant account is under the common law as tenant by the entireties (undivided interest), plus accrued interest.

B: The claimant makes a claim for item:

2.n. FirstBank account #302007057 in the name of Roberto Ferrario-Pozzi in the amount of \$4,308.65. The claimant claims a community property share of $\frac{1}{2}$ plus accrued interest.

C: The claimant makes a claim for item:

2.o. Banco Popular account #11269243 in the name of Roberto Ferrario-Pozzi in the amount of \$1,328.92. The claimant claims a community property share of ½, plus accrued interest.

D: The claimant makes a claim for item:

2.p. Banco Popular account #11902442 in the name of Roberto Ferrario-Pozzi in the amount of \$1,1841.54. The claimant claim a community property share of ½, plus accrued interest.

F: The claimant makes a claim for item:

2.q. Banco Popular account #1125421 in the name of Roberto Ferrario-Pozzi in the amount of \$83,087.88. The claimant claims a community property share of ½ plus accrued interest.

5. The claimant pursuant to 28 U.S.C § 1746 has verified the instant claim under penalty of perjury.

Respectfully submitted,

In San Juan, Puerto Rico, this July 6, 2005

L. Lorenzo J. Palomares Starbuck

Lorenzo J. Palomares, Esq.

USDC# 218107

Counsel for Claimant

500 Muñoz Rivera, Centro 2

Suite 1402

Hato Rey PR 00918

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Fax.(787) 753-7331

CERTIFICATE OF SERVICE

I certify that on this day July 25, 2005 I filed a copy of the instant motion with the CM/EFC electronic filing system that will send a copy of the instant pleading to all counsel of record including Mr. Aramis Rios, Esq. AUSA counsel for the plaintiff.

VERIFIED NOTICE OF CLAIM AND AFFIDAVIT IN SUPPORT OF
MOTION TO SET ASIDE THE PRELIMINARY ORDER OF
FORFEITURE

1. Pursuant to 18 U.S.C § 983 (C) the undersigned makes claim for the property the claimant's interest is of fee simple absolute owner.

A: The claimant makes a claim for item:

2.C. \$673,255 sent to credit Suisse P.B. account #172477745-42 in the name of Brianzanet. The claim for the instant account is under the common law as tenant by the entireties (undivided interest).

B: The claimant makes a claim for item:

2.n. FirstBank account #302007057 in the name of Roberto Ferrario-Pozzi in the amount of \$4,308.65. The claimant claims a community property share of ½.

C: The claimant makes a claim for item:

2.o. Banco Popular account #11269243 in the name of Roberto Ferrario-Pozzi in the amount of \$1,328.92. The claimant claims a community property share of ½.

D: The claimant makes a claim for item:

2.p. Banco Popular account #11902442 in the name of Roberto Ferrario-Pozzi in the amount of \$1,1841.54. The claimant claim a community property share of ½.

F: The claimant makes a claim for item:

2.q. Banco Popular account #1125421 in the name of Roberto Ferrario-Pozzi in the amount of \$83,087.88. The claimant claims a community property share of ½.

2. The undersigned makes claim and attestation pursuant to 28 U.S.C. § 1746. under penalty of perjury.
3. My name is Nelly Esperanza Bejerano, I am of legal age and married to Roberto Ferrario Pozzi.
4. I live and reside in Bogota, Colombia.
5. I have retained the law offices of Lorenzo Palomares P.S.C. and Mr. Lorenzo J. Palomares-Starbuck, Esq. to represent me before the court and tribunals in the United Status of America
6. I make a claim for the money as owner in fee simple absolute and as community property owner under the community property rules of the Commonwealth of Puerto Rico.
7. The undersigned intents to file a claim pursuant to the Supplemental rules of for certain Admiralty within the time set forth by statute.
8. The undersigned herewith provides notice the he has retained the services of Lorenzo Palomares, P.S.C. Attorneys & Counselors at Law to represent him the claim and requests that all notices be sent to the legal representative.
9. I attest that I am an innocent owner of the property subject to the preliminary order of forfeiture. Pursuant to 18 U.S.C § 983 (f) the claimant is entitled to immediate released of the seized property and continued possession by the

Government and substantial hardship to the claimant, such as preventing the function of business, and leaving the individual financially bankrupted will occur in the absence of the release of the sized property.

10. I attest the some of the property subject to forfeiture is located outside of the jurisdiction of the court and subject to the laws of foreign country.

11. I declare, certify, verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Sworn in Bogota, Colombia

This July 25, 2005

S/. Nelly Esperanza Bejerano

Nelly Esperanza Bejerano
Claimant

CERTIFICATE OF SERVICE

On July 6, 2005 I served a copy of the foregoing on counsel for the government, Assistant U.S. Attorney Ms. ROSE VEGA by delivering it to his office at 350 Carlos Chandron Street, Hato Rey, Puerto Rico 00918 via U.S. Mail and facsimile (787) 766-5326. Mr. Enrique Velez-Rodriguez, Esq. P.O. Box 70351 San Juan P.R. Fax (787) 751-3991.

Lf. Lorenzo J. Palomares Starbuck, Esq.
Lorenzo J. Palomares Starbuck, Esq.